

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 9th day of August, two thousand and six.

PRESENT:

HON. RALPH K. WINTER,  
HON. BARRINGTON D. PARKER,  
HON. REENA RAGGI,  
*Circuit Judges.*

Jin Hua Wu,

*Petitioner,*

-v.-

No. 05-5744-ag  
NAC

Alberto R. Gonzales,

*Respondent.*

FOR PETITIONER: Kimberly Ellis, Law Offices of Michael Brown, New York, New York.

FOR RESPONDENT: Kevin J. O'Connor, United States Attorney for the District of Connecticut, Ann M. Nevins, Assistant United States Attorney, Bridgeport, Connecticut.

UPON DUE CONSIDERATION, of this petition for review of the Board of Immigration Appeals ("BIA") decision it is hereby ORDERED, ADJUDGED, AND DECREED that the

1 petition for review is DENIED.

2 Jin Hua Wu petitions for review the BIA's October 2005 denial of his motion to  
3 reconsider its summary affirmance of Immigration Judge ("IJ") Michael J. Straus's denial of his  
4 claims for asylum, withholding of removal, and relief under the Convention Against Torture  
5 ("CAT"). We assume the parties' familiarity with the facts and procedural history of this case.

6 This Court reviews the BIA's denial of a motion to reconsider for abuse of discretion. *See*  
7 *Khouzam v. Ashcroft*, 361 F.3d 161, 165 (2d Cir. 2004). An abuse of discretion may be found  
8 where the BIA's decision "provides no rational explanation, inexplicably departs from  
9 established policies, is devoid of any reasoning, or contains only summary or conclusory  
10 statements; that is to say, where the Board has acted in an arbitrary or capricious manner." *Ke*  
11 *Zhen Zhao v. DOJ*, 265 F.3d 83, 93 (2d Cir. 2001) (internal citations omitted).

12 The BIA did not abuse its discretion in denying Wu's motion to reconsider. The BIA  
13 adequately addressed Wu's concern that the IJ relied too heavily on country condition reports in  
14 making his adverse credibility finding. In its decision, the BIA cited this Court's holding in *Jian*  
15 *Xing Huang v. INS*, 421 F.3d 125, 129 (2d Cir. 2005) to support its summary affirmance of the  
16 IJ's adverse credibility finding. The BIA reasonably determined that Wu was unable point to  
17 credible evidence that undermined the IJ's findings. The BIA provided a clear and rational  
18 explanation for denying Wu's motion to reconsider. As a result, the BIA did not abuse its  
19 discretion, nor did it violate Wu's due process rights when it denied his motion to reconsider.

20 For the foregoing reasons, the petition for review is DENIED. Having completed our  
21 review, any stay of removal that the Court previously granted in this petition is VACATED, and  
22 any pending motion for a stay of removal in this petition is DENIED as moot. Any pending

1 request for oral argument in this petition is DENIED in accordance with Federal Rule of  
2 Appellate Procedure 34(a)(2), and Second Circuit Local Rule 34(d)(1).

3  
4 FOR THE COURT:  
5 Roseann B. MacKechnie, Clerk  
6 By: \_\_\_\_\_  
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